

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Contract 199 (MC2016-100)
Negotiated Service Agreements

Docket No. CP2016-128

ORDER APPROVING AMENDMENT ONE TO
PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued November 13, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

In Order No. 3188, the Commission approved the Priority Mail Contract 199 negotiated service agreement (Existing Agreement).² On October 31, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On

¹ USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 199, October 31, 2017 (Notice). The amendment is an attachment to the Notice (Amendment).

² See Docket Nos. MC2016-100 and CP2016-128, Order Adding Priority Mail Contract 199 to the Competitive Product List, March 29, 2016 (Order No. 3188).

November 1, 2017, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of

³ See Docket No. CP2016-128, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, November 1, 2017.

⁴ Public Representative Comments on USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 199, Public Representative Comments, November 2, 2017 (PR Comments).

institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment changes which packages receive contract rates and implements a volume-based tiered pricing. Notice, Attachment A at 1-5.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.H of the Existing Agreement, as amended, should allow its revenues to cover costs for the duration of its term. See Notice, Attachment A at 4-5. The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination (ACD) to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. Notice at 1.

The Amendment also contains a provision that allows the parties to extend the Existing Agreement for two 90-day periods if a successor agreement is being prepared and the Commission is notified at least seven days prior to the expiration date of the Existing Agreement, as modified. Notice, Attachment A at 5. This provision is substantially unchanged from a similar provision in the Existing Agreement.⁵

⁵ Docket Nos. MC2016-100 and CP2016-128, Request of the United States Postal Service to Add Priority Mail Contract 199 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 18, 2016, Attachment B at 3.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Contract 199 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary